

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): George W. ERHART et al.	Conf. No.: 3849
Application No.: 10/674,562	Art Unit: 2614
Filed: September 30, 2003	Examiner: DEANE, W. J. Jr.
Title: ESTIMATION OF EXPECTED VALUE FOR REMAINING WORK TIME FOR CONTACT CENTER EMPLOYEES	

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**STATEMENT IN SUPPORT OF REQUEST FOR PRE-APPEAL BRIEF REVIEW**

Sir:

Claims 1, 4-6, 8-11, 14 and 16-27 are pending in the above application. Claims 1, 4-6, 8-11, 14 and 16-18 are allowed, and claim 27 is objected to. Claims 19-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mewhinney in view of Dezonno and further in view of "the instant application."

Claim 19 recites a method of estimating the time remaining on a service call for use in a call management system which interconnects a customer who is using a communication device with one of a plurality of customer agents. The method includes defining a plurality of service call phases, performing automated speech recognition on a conversation between the customer and one of the plurality of customer agents, determining the phase of the service call based on the outcome of said automated speech recognition step and estimating the time remaining on the service call based on the phase of the call.

Mewhinney does not teach at least performing automated speech recognition on a conversation between the customer and one of the plurality of customer agents and

determining the phase of the service call based on the outcome of said automated speech recognition step. Instead, Mewhinney determines the stage of a call from an explicit input from an agent (column 8, lines 4-7) or from the navigational commands input by the agent (column 8, lines 14-20), or based on the text that is being presented on a screen to the agent (column 6, line 61 to column 7, line 13). The examiner, however, asserts that because the general concept of automated speech recognition is known, it would have been obvious to modify Mewhinney to meet the limitations of claim 19.

The Office Action asserts that instead of using a keyboard to indicate the phase of a call, the agent should speak some phrase each time the phase of the call changes and that an automatic speech recognition system would then determine the call phase from the agent's speech. The examiner seems to be proposing that while the agent is making a sales pitch, for example, the agent would periodically utter phrases such as "greeting phase" or "discussion phase." Thus, the agent might say: "I'm glad you like our product and I'd like to get your name and address closing phase," which would presumably be confusing to customers and interfere with sales. One of ordinary skill in the relevant art would have no reason to modify Mewhinney in this manner. Any such modification would either change the principle of operation of Mewhinney or render Mewhinney unsatisfactory for its intended purpose, and MPEP 2143.01 provides that these types of modification are never obvious.

The examiner might be proposing to let the agent mute a call and then speak a phrase such as "closing phrase" to a voice recognition system instead of using a keyboard. However, in that case, the action "performing automated speech recognition on a conversation between the customer and one of the plurality of customer agents

would not be satisfied. Statements that a customer can't hear are not part of a conversation between the customer and an agent as required by claim 19. Under this interpretation as well, claim 19 is allowable over Mewhinney.

The rejection of claim 19 is based in part on Dezonno, but Dezonno is not discussed in connection with any limitation of claim 19. Dezonno does not teach automated speech recognition and does not suggest any modification to Mewhinney that would produce the invention of claim 19. The rejection of claim 19 is also based on "the instant application." The teaching being relied upon is apparently the fact that automated speech recognition is known. However, this fact does not render every application of automated speech recognition obvious. Dezonno and the background section of the "instant application" provide no reason for one of ordinary skill in the art to modify Mewhinney, and claim 19 is submitted to be allowable over Mewhinney, Dezonno and the background of the instant application for at least this reason.

Claims 20-26 depend from claim 19 and are submitted to be allowable for at least the same reasons as claim 19.

Respectfully submitted,

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